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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/780,416	02/12/2001	Uwe Horn	2789-35	8129
23117	7590	07/08/2005	EXAMINER	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			SRIVASTAVA, VIVEK	
			ART UNIT	PAPER NUMBER
			2617	

DATE MAILED: 07/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/780,416	HORN ET AL.
	Examiner	Art Unit
	Vivek Srivastava	2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 19 April 2005.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-23 and 25 - 33 is/are rejected.
- 7) Claim(s) 24 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1 – 6, 9, 10, 14 – 23, 27, 28, 32 and 33 are rejected under 35**

**U.S.C. 102(e) as being anticipated by Sen et al (US 6,208,620).**

**Regarding claims 1, 16 and 32,** Sen discloses a method for controlling a processing of video data such that video data may be transmitted over a connection in a communication network (see 'Internet 205' in fig 2), the connection employing a plurality of protocol layers (see 221, 209, 217, 213, 215 in fig 2).

Sen discloses processing data at the first layer i.e. application layer 221 and TAS layer 209 (see fig 2) and acquiring values of one or more transmission condition parameters indicative of transmission conditions of the network (see col 9 lines 8 – 17). In particular, Sen discloses "To get a fairly accurate predication, the value of N should be....The above predication algorithm assumes the presence of IS-705 RLP at the link layer and is a separate prediction scheme for predication channel conditions" (see col 9

lines 1 – 17). It is noted that the condition parameters are specific to the RLP layer which is lower than the TAS and application layer (see fig 2).

Sen further discloses the TAS layer uses the values for the transmitting conditions to control processing of the video data for transmission by caching, re-transmitting and to transfer at a full transfer rate in accordance with the transmission conditions (see col 8 line 47 – col 9 line 67, col 8 lines 47 – 67) and thus discloses the claimed deriving one or more values of one or more video control parameters usable at a first layer from said value of at least one transmission condition parameter and performing controlling of the processing of video data in accordance with the derived one or more values.”

**Regarding claim 2,** Sen discloses the predetermined Internet link 205 (see fig. 2).

**Regarding claims 3 and 19,** Sen discloses the parameters are acquired at the WAG 203 or sending side of the link (see fig. 2).

**Regarding claims 4 and 18,** Sen discloses the claimed radio link (see col 6 lines 12 – 44).

**Regarding claims 5 and 20,** Sen discloses the claimed application layer as met by TAS and the claimed link layer as met by RLP (See col 9 lines 1 – 28).

**Regarding claims 6, 21 and 33,** Sen discloses the claimed wireless communication network with a base station 203 in the wireless communication network (see fig 2, see col 6 lines 12 – 44).

**Regarding claims 9 and 27**, Sen disclose the claimed packetization of video data (see col 9 lines 18 – 52, col 7 lines 16 – 49).

**Regarding claims 10 and 28**, Sen discloses the claimed current transmission delay of the link – see col 9 lines 18 – 52),

**Regarding claims 14 – 15**, Sen inherently discloses the claimed digital computer device with computer program code and softward code needed for performing the the method of claim 1.

**Regarding claim 17**, Sen discloses TAS is part of the entire ‘control element’ residing in WAG 203 (see fig 2) for controlling the transmission of data over a predetermined link forming part of a connection where one or more transmission condition parameters are indicative of a transmission condition associated with said predetermined link (see claim 2).

**Regarding claim 22**, Sen discloses the processing element, acquisition element and element for deriving values of video control parameters are all providing in WAG 203 (see col 6 lines 12 – 43).

**Regarding claim 23**, Sen discloses the different layers or groups and thus discloses the different units.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 7 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sen et al (US 6,208,620) in view of the Programmable H.263-Based Wireless Video Transceivers For Interference-Limited Environments document (herein after 'H.263 document') cited by Applicants.**

Regarding claims 7 and 25, Sen fails to disclose the claimed processing of video data comprises the coding or transcoding of data.

In analogous art, the H.263 document teaches an H.263 codec produces a bitstream maintaining a fixed framerate for the target bitrate, which is adjusted depending on channel conditions. The H.263 document further teaches the H.263 scheme can adapt to time-variant system optimization criteria under a variety of propagation conditions.

It would have been obvious to modify Sen to include the claimed coding or transcoding of video data. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Sen to include the claimed limitation for the benefit of attaining highly optimized propagation conditions based on the condition of the channel.

**Claims 8, 11, 26 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sen et al (US 6,208,620).**

**Regarding claims 8 and 26**, Sen fails to disclose the claimed wherein the processing of video data comprises the forward error correction of the video data.

Official Notice is taken that the use of forward error correction is notoriously well known to provide a reliable means of communication by preventing packet loss as admitted by Applicant's on page 2 of the specification. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Sen to include the claimed limitation to provide a more reliable means for communication.

**Regarding claims 11 and 29**, Sen fails to disclose the claimed transmission parameters are selected from current power-level on the radio link.

Official Notice is taken detecting the power-level of a transmission link is a well known means for controlling the transmission of data to ensure optimum transmission of data. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Sen to include the claimed limitation to ensure optimum transmission of data.

**Claims 12, 13, 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sen et al (US 6,208,620) in view of Li (US 6,275,531).**

**Regarding claims 12, 13, 30 and 31**, Sen fails to disclose the claimed transmitting data in scalable form by having a base stratum bit stream and at least one enhancement stratum bit stream, and by deciding on the inclusion or exclusion of said

enhancement stratum in the transmitted data on the basis of the derived one or more values of one or more video control parameters.

In analogous art, Li scalable video coding method and apparatus comprising multiple bitstreams including a base layer bitstream and enhancement layer bitstream. Li further teaches the base layer is always transmitted and that the number of enhancement layers transmitted is determined or limited by the network that provides the transmission channel and particularly discloses "While the base layer bitstream is always transmitted to the destination point, the same is not necessarily true for the enhancement layers" (see col 3 lines 11 – 27). Li further teaches prioritizing the transmission of data due to the characteristics and bandwidth of the network (see col 3 lines 28 – 43).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Sen to include the claimed limitation to provide maximum system efficiency by efficiently optimizing bandwidth usage and network and system capabilities.

#### ***Allowable Subject Matter***

**Claim 24** is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Jung et al (6,421,735) – Automatically selecting a network port

Heeren et al (6,311,288) – Virtual circuit backup

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vivek Srivastava whose telephone number is (571) 272-7304. The examiner can normally be reached on Monday – Friday from 9 am to 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272 – 7331. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vs 7/6/05



VIVEK SRIVASTAVA  
PRIMARY EXAMINER